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DEPARTMENT OF BUDGET AND FINANCE
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TRANSMITTAL MEMORANDUM

Date: March 24, 2009

RE: Docket No. 2009-0048, Molokai Public Utilities, Inc.

VIA: Mail ☒ Fax ☐ Pages: Courier ☐ Hand Delivery ☐ Email ☐

TO:	Phone	Fax	Email
Michael H. Lau, Esq. Yvonne Y. Izu, Esq. Sandra L. Wilhide, Esq. Moriwara Lau & Fong LLP 841 Bishop Street Honolulu, HI 96813 Catherine P. Awakuni Executive Director Department of Commerce and Consumer Affairs Division of Consumer Advocacy P. O. Box 541 Honolulu, HI 96809			
cc: Peter A. Nicholas Molokai Public Utilities, Inc. c/o Molokai Properties Limited 745 Fort Street Mall, Suite 600 Honolulu, HI 96813			
FROM: Michael Azama <i>M. Azama</i> Commission Counsel			

TRANSMITTING:

Originals	Copies	Date	Description
	X	03/23/09	Electronic mail from DeGray Vanderbilt

TRANSMITTED FOR:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Your Information and Files | <input type="checkbox"/> Your Further Necessary Action |
| <input type="checkbox"/> Your Signature and Return | <input type="checkbox"/> Your Approval |
| <input type="checkbox"/> Your Signature and Forwarding | <input type="checkbox"/> Your Review and Comment |
| <input type="checkbox"/> As Noted Below | <input type="checkbox"/> Per Your Request |
| <input type="checkbox"/> Per Our Conversation | <input type="checkbox"/> SEE REMARKS BELOW |

REMARKS:



pauhanamolokai@yahoo.com

03/23/2009 10:42 AM

Please respond to
pauhanamolokai@yahoo.com

To Kaiulani.K.Shinsato@hawaii.gov

cc Jane Lovell <jane.lovell@co.maui.hi.us>, Margery Bronster
<mbronster@bhhawaii.net>, Catherine Awakuni
<catherine.p.awakuni@dcca.hawaii.gov>, Peter Nicholas
<peter@molokairanch.com>

bcc

Subject Copies of documents: Dockets 2009-49 ; 2009-48 ;
2008-0115 all associated with private utilities controlled by
Molokai Properties Limited

Aloha Ms. Shinsato:

There seems to be a problems downloading several important documents from the PUC website.

Please email me a copy of the following:

Docket 2009-49: Wai'ola O Moloka'i application for review and approval of rate increase.

Docket 2009-48: Molokai Public Utilities, Inc application for review and approval of rate increase.

Docket 2008-115:

1. Stipulation for Protective Order filed February 24, 2009
2. Motion to Extend Order approving Temporary Rate Relief filed October 29, 2009

the above Document No. 2 under Docket 2008-115, the message comes up that the document is not available.

The above documents cannot be downloaded either because the program crashes when the command save is entered or as in the case with Document No. 2 above under Docket 2008-115, a message came up that the document could not be located.

I was able downloaded the County of Maui's response to the Utilities request for an extension of the temporary rate increase filed on November 6, 2008, and the PUC's Order approving the extension of Temporary Rate Relief and Request for Extension to file General Rate Case Application filed February 24, 2009.

I was unable to locate any response by the Consumer Advocate, on behalf of the rate payers (many who are Molokai low-income families), to the Motion to Extend Order approving Temporary Rate Relief filed October 29, 2009 by the Utilities.

Is the Consumer Advocate required by law to file a response to the aforementioned motion? If the Consumer Advocate filed a motion, please email me a copy along with the other documents.

The public on Molokai needs to prepare for the upcoming public hearing on the significant rate increases being proposed by the utilities controlled by Molokai Properties Limited (MPL) who has abandoned its Molokai operations, MPL's off-shore parent company GuocoLeisure Limited, and MPL's off-shore ultimate parent company Guoco Group, all of which are controlled by Malaysian multi-billionaire Quek Leng Chan.

Some on Molokai were under the impression that the public hearing was

tentatively scheduled to be sometime in April, 2009. This was before the Utilities requested and the PUC approved a two-week extension for the Utilities to file their respective rate increase applications.

Is there a tentative date the PUC has in mind for the public hearing.

How much public hearing notice is required?

Will the public hearing be on Molokai?

Will the hearing be advertised in the local Molokai paper?

Will a testifier be able to provide separate testimonies on each docket?

Will the Commission impose a time limit of the individual testimonies for each docket?

LOCATION OF THE PUBLIC HEARING: Most likely there will be more people attending the upcoming rate increase public hearing that attended the previous one held at the Maunaloa School.

As you recall, many people could not even fit into the public hearing room at Maunaloa School. Hopefully, the Commission will hold the hearing in a room that is sufficient to allow everyone who is attending to sit in and be part of the hearing. It seems to be only right to consider a bigger meeting room for the public benefit.

The public community center at Hoolehua would be an ideal spot for the hearing. This location has handled large public hearing crowds before, allowing everyone who attended to be part of the process. The last major public hearing at this location was a 2-day hearing sponsored by the State Land Use Commission.

The location is convenient to both the west end rate payers (Maunaloa) and the central Molokai (Kualapuu).

CONFIDENTIAL DOCUMENTS:

The public can be a valuable asset to the Commission based on the local-knowledge it maintains which the Commissioners or the PUC staff do not have exposure to. Such knowledge, if utilized by the staff and Commissioners, can lead to more informed decisions being made by the Commission. This is especially true when it come to Molokai.

It was my understanding that the Commission was going to consider whether or not all of the documents that Mr. Nicholas has filed "as confidential" are indeed "confidential" .

The key documents the public would like to have access to is the "monthly operational reports" that the utilities are being required to file. It is hard to understand how the information contained in these documents should qualify "as confidential", especially in light of a legislative policy that Office of Information Practice's Director Paul Tsukiyama had the following comment on (see OIP website): "the legislative declaration of policy and intent made it clear that in a democracy, the people are vested with the ultimate decision-making power, and that government agencies exist to aid the people in the formation and conduct of public policy.and government efficiency. This past year saw some legislative changes which affected the Sunshine Law, and which illustrated the evolving legal process to achieve this workable balance.

I feel confident that if you asked the other parties to the docket, namely the County of Maui and the Consumer Advocate, I doubt they would have any objection to making the monthly utility operating reports public. Its hard to imagine what objection Mr. Nicholas would have. If account individual utility customer names are included in the reports, these names can be deleted by marking them out with a magic marker.

Please let me know if the monthly utility reports will be made available.

The Commission has had to filter through less than truthful information and hollow threats advanced by Peter Nicholas, who manages the utility companies, as well as, being the senior officer for Molokai Properties Limited (MPL) and an member of GuocoLeisure Limited's senior management team. This is an undisputed fact.

It is more than likely that Mr. Nicholas, or his representatives, will continue their old habits and compromise the truth in information they provide to the Commission. Just a few weeks ago, Mr. Nicholas provided less-than-truthful testimony to the state legislature in an attempt to defeat certain legislation that was unfavorable to the respective agendas of MPL, GuocoLeisure and/or Guoco Group.

If the Commission wishes me to provide a copy of Mr. Nicholas's less-than-truthful testimony to our state legislators, please let me know and I will provide the document.

Commissioner Kondo used to head up the state's OIP office and knows the relevance and importance an open process that allows the public to participate "on a level playing field" with the likes of large off-shore-owned corporate powers such as Molokai Properties Limited (MPL).

Hopefully, the Commission will not allow MPL and/or Mr. Nicholas to continue enjoying (and taking advantage of) unfettered protection under the Confidentiality Veil provided by the commission rules, especially in light of his propensity to manipulate the the truth and compromise the spirit of the PUC proceeding by providing as few documents as he is able slide by with (i.e. Mr. Nicholas's lack of response to County's reasonable document requests).

Mr. Nicholas is clearly abusing the good intentions of this PUC rule provision.

What decision, if any, has been made by the Commission regarding the confidentiality of all or a portion of the documents filed by the utilities?

Thank you for your assistance in providing the above requested documents and information.

If you have any questions on the above, please call me.

Please forward this email to the PUC Commissioners. It is not being filed as a confidential document.

Best regards,

DeGray Vanderbilt
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Kaunakakai, Molokai, Hawaii 96768
(808) 283-8171